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EXAMINER

AVELLINO, JOSEPH E

ART UNIT PAPER NUMBER

2143

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/825,412

Applicant(s)

HOOD ET AL.

Examiner

Joseph E. Avellino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 1-20 are presented for examination with claims 1, 12, and 17 independent. The Office acknowledges the addition of claims 18-20.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-14, and 16-20, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziskind et al. (US pub. 2002/0073343) (hereinafter Ziskind) in view of Haste, III (USPN 6,665,389) (hereinafter Haste).

3. Referring to claim 1, Ziskind discloses a method of facilitating exchange of messages at a computerized message exchange system, comprising:

storing a first plurality of usernames at said system, each of said first plurality of users associated with users of a first introduction service provider (i.e. AOL, MSN messenger, Yahoo! Messenger, etc.) (Figure 1; p. 2, ¶ 30-31);

storing a second plurality of usernames at said system, each of said first plurality of users associated with users of a second introduction service provider (i.e. AOL, MSN messenger, Yahoo! Messenger, etc.) (e.g. abstract; Figure 1; p. 2, ¶ 22, 30-31);

allowing users associated with said first introduction service provider access to selected ones of said second plurality of said second plurality of usernames, based on

criteria associated with an originator of each of said selected ones of said second greetings, and criteria set by said first introduction services provider (i.e. an authorized user of the first system) (e.g. abstract; Figure 1).

Ziskind does not disclose storing a plurality of greetings at said system which greetings are associated with users. In analogous art, Haste discloses an introduction services provider which stores a plurality of greetings (i.e. video, and audio clip) at the server (Figure 1B). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Haste with Ziskind to provide blocking access of personal information to strangers in order to keep information private and confidential, thereby increasing overall personal security as supported by Haste (col. 1, lines 40-45).

4. Referring to claim 2, Ziskind discloses allowing limits said second plurality of usernames to usernames associated with users of introduction service providers authorized by said first introduction service provider (i.e. only allowed to talk to people registered on the second site through the mediating server) (Figure 2, reference character 26-30). Ziskind does not disclose storing greetings, rather usernames. In analogous art, Haste discloses storing a plurality of greetings at the server (Figure 1B). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Haste with Ziskind to provide blocking access of personal information to strangers in order to keep information private and confidential, thereby increasing overall personal security as supported by Haste (col. 1, lines 40-45).

5. Referring to claim 3, Ziskind discloses the invention substantively as described in claim 2. Ziskind does not specifically disclose limiting greetings accessed to those sanctioned by said first introduction service provider. Haste discloses matching greetings between people by matching a criteria based on the first person's desire to meet people pertaining to the same interests (e.g. abstract). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Haste with Ziskind to provide blocking access of personal information to strangers in order to keep information private and confidential, thereby increasing overall personal security as supported by Haste (col. 1, lines 40-45).

6. Referring to claim 4, Ziskind discloses using data stored within a first field (i.e. in a database field) to determine users of other service providers are authorized by said first introduction service provider (i.e. if they are not authorized by the mediating server, then they are unable to interact with any users on the first provider) (Figure 1). Ziskind does not disclose storing greetings, rather usernames. In analogous art, Haste discloses storing a plurality of greetings at the server (Figure 1B). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Haste with Ziskind to provide blocking access of personal information to strangers in order to keep information private and confidential, thereby increasing overall personal security as supported by Haste (col. 1, lines 40-45).

7. Referring to claim 5 and 6, Ziskind discloses the invention substantively as described in claim 4. Ziskind does not disclose using a second data field to determine which interests are sanctioned by the first service provider in order to determine which of second greetings to retrieve by a database query. Haste discloses storing interests of a user in order to query a database in order to retrieve other users sanctioned by the first user (col. 2, lines 45-61). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Haste with Ziskind to provide blocking access of personal information to strangers in order to keep information private and confidential, thereby increasing overall personal security as supported by Haste (col. 1, lines 40-45).

8. Referring to claims 7-9, Ziskind in view of Haste disclose the invention substantively as described in claim 6. Ziskind in view of Haste do not disclose the first and second fields are binary masks and the service provider identifiers are determined by using the binary mask in the first field. It is an inherent feature that the system of Ziskind must somehow determine which service provider a user corresponds to in order to figure out which affiliate messenger website to query for authentication information, however does not specifically state that this is done using a binary mask. "Official Notice" is taken that both the concept advantages of providing for binary mask fields in databases is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to include a binary mask to the combined system of Ziskind and Haste to provide for a simplistic method of determining a selected user out of a plurality

of users in a set, thereby reducing the complexity of the system while allowing for the ease of future upgrades or replacements.

9. Referring to claim 10, Ziskind discloses permitting a user of said first service provider to send a message to said users associated with said selected ones of said second plurality of greetings (e.g. abstract).

10. Referring to claim 11, Ziskind discloses levying a charge for sending said message, and tallying a total of charges for users associated with said first service provider (it is inherent that AOL charges a monthly service fee for being part of their system, and it would be obvious to one of ordinary skill in the art that the system described by Ziskind could levy a charge for being part of this service).

11. Claims 12-14, and 16-17 are rejected for similar reasons as stated above.

12. Referring to claims 18-20, Ziskind discloses the invention substantively as described in claims 1, 12, and 17. Ziskind does not specifically disclose the criteria comprises at least one interest, age, and gender. In analogous art, Haste discloses the criteria comprises interest, age, and gender (Figure 1C).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ziskind in view of Haste in view of Lamb et al. (USPN 6,747,970) (hereinafter Lamb).

13. Referring to claim 15, Ziskind in view of Haste disclose the invention substantively as described in claim 12. Ziskind in view of Haste does not disclose including an IVR unit for obtaining instructions from the user by with of a telephone network. Lamb discloses another message exchange system which includes an IVR unit for obtaining instructions from the user by with of a telephone network (col. 29, lines 20-25). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Lamb with Ziskind and Haste to allow users of a packet messaging service the use of contacting people by telephone when they do not have a messaging service provider or even Internet, thereby increasing interaction with people and allowing more people to meet one another. It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Haste with Ziskind to provide blocking access of personal information to strangers in order to keep information private and confidential, thereby increasing overall personal security as supported by Haste (col. 1, lines 40-45).

Response to Arguments

14. Applicant's arguments filed March 3, 2005 have been fully considered but they are not persuasive.

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15. Applicant argues, in substance, that (1) there is no motivation for one of ordinary skill in the art to combine Ziskind with Haste, and (2) the combination of Ziskind with Haste do not disclose giving access to greetings of selected users of a second service provider.

16. As to point (1) Applicant's attention is turned to p. 3. Ziskind discloses the XML data packet which includes verification information 12 (¶ 32). In this packet contains fields which correctly define the user in a variety of elements, including language, contact email address, user preference email, location address, gender, birthdate, and whether they wish to be listed in the directory. One of ordinary skill in the art would understand that this user directory would be searchable based on the fields provided in the XML data packet (i.e. by gender, location and age). All of these fields are included for all service providers, and thereby give motivation in order to search for a selected subset of users of other service providers. This gives proper motivation to find other systems which search for users based on selected criteria, eventually finding the system of Haste and its interactive internet based dating service providing a search service including age, location, physical characteristics, interests, and lifestyles (see figure 1C). By this rationale it is understood that there would be sufficient motivation for one of ordinary skill in the art to combine these references in order to allow other people from various different providers to get in contact with one another, thereby increasing the amount of people able to be contacted.

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17. As to point (2) the search criteria system of Haste, when taken in combination with Ziskind will return greetings of others, which fit into the search categories of the user, and Ziskind will permit these people to be on a second service provider. By this rationale the rejection is maintained.

Conclusion

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

19. Applicant has failed to seasonably challenge the Examiner's assertions of well known subject matter in the previous Office action(s) pursuant to the requirements set forth under MPEP §2144.03. A "seasonable challenge" is an explicit demand for evidence set forth by Applicant in the next response. Accordingly, the claim limitations the Examiner considered as "well known" in the first Office action are now established

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as admitted prior art of record for the course of the prosecution. See *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JEA
April 5, 2005



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